

EXPOSURE DRAFT



EXPOSURE DRAFT

Charities (State or Territory Government Entity) Instrument 2023

I, Andrew Leigh, Assistant Minister for Competition, Charities and Treasury, make the following instrument.

Dated 2023

Dr Andrew Leigh **[DRAFT ONLY—NOT FOR SIGNATURE]**
Assistant Minister for Competition, Charities and Treasury
Parliamentary Secretary to the Treasurer
for the Minister for Social Services

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

Part 1—Preliminary	1
1 Name	1
2 Commencement	1
3 Authority.....	1
4 Schedules	1
5 Definitions	1
Part 2—State and territory government entities	2
6 Prescribed kinds of entity.....	2
Schedule 1—Repeals	3
<i>Charities (Definition of Government Entity) Instrument 2013</i>	3

EXPOSURE DRAFT

Preliminary **Part 1**

Section 1

Part 1—Preliminary

1 Name

This instrument is the *Charities (State or Territory Government Entity) Instrument 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Charities Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: Paragraph 13(1)(b) of the *Legislation Act 2003* has the effect that expressions have the same meaning in this instrument as in the *Corporations Act 2001* as in force from time to time.

In this instrument:

local governing body has the meaning given by the *Income Tax Assessment Act 1997*.

the Act means the *Charities Act 2013*.

EXPOSURE DRAFT

Part 2 State and territory government entities

Section 6

Part 2—State and territory government entities

6 Prescribed kinds of entity

Under subsection 4(2) of the Act, for the purposes of subparagraph 4(1)(b) of the Act all of the following kinds of entity are prescribed:

- (a) a local governing body;
- (b) an entity that has all the privileges and immunities of the Crown (in any of its capacities);
- (c) an entity that, in pursuing its objectives, is not independent of the Crown (in any of its capacities), having regard to:
 - (i) the degree of control the Crown can exercise over the entity's governance and operations; and
 - (ii) whether the entity was established with the objective of fulfilling a function or responsibility of the Crown (in any of its capacities); and
 - (iii) any other relevant matter.

Schedule 1—Repeals

Charities (Definition of Government Entity) Instrument 2013

The whole of the instrument

Repeal the instrument.